

ST 03-0202-GIL 12/23/2003 GROSS RECEIPTS

If a manufacturer provides a rebate to the retailer, the amount of that rebate is considered part of the gross receipts received by the retailer and is fully taxable. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

December 23, 2003

Dear Xxxxx:

This letter is in response to your letter dated October 16, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a company that operates a significant number of retail gasoline service stations in your state. ABC sells a very significant number of cigarettes from these retail gasoline service stations. ABC is respectfully requesting that you review the attached information and respond in writing to the various questions proposed in each of the examples. This will ensure ABC is in compliance with your state's sales tax collection regulations.

It would be greatly appreciated if an expedient response could be provided to us. A self-addressed, postage paid envelope has been provided for your convenience. Should you need additional information or clarification of the examples, please call me.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is based on the amount of gross receipts received by the retailer on the sale of that property. "Gross receipts" means all the consideration actually received by the seller, except traded-in tangible personal property personal property. See 86 Ill. Adm. Code 130.401.

If a manufacturer provides a rebate to the retailer, the amount of that rebate is considered part of the gross receipts received by the retailer and is fully taxable. See 86 Ill. Adm. Code 130.2125. If a retailer offers a discounted price for an item and does not receive any rebate, the lower amount received from the customer would be the retailers' gross receipts for the sale. Rebates from suppliers must be distinguished from situations in which retailers receive discounts from suppliers and pass those discounts on to customers. In the first instance, the full amount received from the customer and the manufacturer will be subject to tax. In the latter instance, the gross receipts subject to tax will include only those amounts received by the retailer from the customer. See subsection (b)(2)(B) of Section 130.2125.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk